

HOUSE BILL 61

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R4

1999 Regular Session
9r0525
CF 9r0524

By: **Delegate Wood (Task Force to Study the Comprehensive Licensing of
Automotive-Related Industries)**

Introduced and read first time: January 20, 1999
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Law - Automotive-Related Industries - Regulation**

3 FOR the purpose of requiring automotive repair facilities and vehicle storage facilities
4 to maintain certain records and make certain records and certain vehicles and
5 parts available for inspection by the Motor Vehicle Administration (MVA) or by a
6 police officer during normal business hours; establishing civil penalties for
7 violations of certain regulatory requirements applicable to certain
8 automotive-related industries; authorizing certain employees of the MVA to
9 issue citations pertaining to certain business practices regulated under the
10 Maryland Vehicle Law; authorizing the MVA to sue for injunctive relief under
11 specified circumstances; modifying a prohibited act pertaining to operation of
12 tow trucks; modifying the maximum criminal penalty applicable to certain
13 unlicensed business activities; modifying the jurisdiction of the District Court;
14 prescribing certain procedures pertaining to enforcement of certain business
15 regulatory provisions and collection of certain civil penalties; defining certain
16 terms; and generally relating to the regulation of certain automotive-related
17 industries and business practices under the Maryland Vehicle Law.

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 4-401(11)
21 Annotated Code of Maryland
22 (1998 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Transportation
25 Section 12-104.1, 12-108, 13-920(j), 15-113, and 27-101(h) and (i)
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 1998 Supplement)

28 BY adding to
29 Article - Transportation
30 Section 15-113.1 and 15-115

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 1998 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Transportation
5 Section 13-920(a), 15-502(a), and 27-101(a) and (b)
6 Annotated Code of Maryland
7 (1998 Replacement Volume and 1998 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Courts and Judicial Proceedings**

11 4-401.

12 Except as provided in § 4-402 of this subtitle, and subject to the venue
13 provisions of Title 6 of this article, the District Court has exclusive original civil
14 jurisdiction in:

15 (11) A proceeding for adjudication of a civil penalty for any violation under §
16 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122 [of the
17 Transportation Article], OR § 21-1414 of the Transportation Article, or Article 41, §
18 2-101(c-1) of the Code or any rule or regulation issued pursuant to those sections;

19 **Article - Transportation**

20 12-104.1.

21 (a) The Administrator may designate employees of the Investigative Division
22 of the Administration to exercise the powers specified in subsection (b) of this section.

23 (b) (1) An employee appointed under this section may issue citations to the
24 extent authorized by the Administrator for violations of:

25 (i) Those provisions of Title 13 of this article relating to:

- 26 1. The vehicle excise tax;
- 27 2. Vehicle titling and registration;
- 28 3. Special registration plates for individuals with disabilities;
- 29 and
- 30 4. Parking permits for individuals with disabilities;

31 (ii) Those provisions of Title 17 of this article relating to required
32 security;

1 (iii) Those provisions of Title 14 of this article relating to falsified,
2 altered, or forged documents and plates;

3 (iv) Those provisions of Title 16 of this article relating to unlawful
4 application for a license and vehicle operation during periods of cancellation,
5 revocation, and suspension of a driver's license; [and]

6 (v) Those provisions of Title 21 of this article relating to special
7 residential parking permits issued by the Administration; AND

8 (VI) THOSE PROVISIONS OF TITLE 15 OF THIS ARTICLE RELATING
9 TO:

10 1. MAINTENANCE OF AND ACCESS TO REQUIRED BUSINESS
11 RECORDS; AND

12 2. UNLICENSED BUSINESS ACTIVITY.

13 (2) The issuance of citations under this section shall comply with the
14 requirements of § 26-201 of this article.

15 (c) The Administrator shall adopt regulations establishing:

16 (1) Qualifications for employees appointed under this section including
17 prerequisites of character, training, experience, and education; and

18 (2) Standards for the performance of the duties assigned to employees
19 appointed under this section.

20 12-108.

21 (a) In any matter subject to its jurisdiction, the Administration may subpoena
22 any person or documents and take the testimony of any person, in the same manner
23 and with the same fees and mileage as provided for by law in civil cases.

24 (b) If any person fails to comply with a lawful order or subpoena issued by the
25 Administration, the Administration may petition a court of competent jurisdiction to
26 compel obedience to the subpoena or order and to compel the production of relevant
27 documents and other evidence.

28 (C) (1) IF THE ADMINISTRATION CONCLUDES THAT CONTINUING CONDUCT
29 OF A PERSON ALLEGED TO BE IN VIOLATION OF TITLE 15 OF THIS ARTICLE MAY
30 RESULT IN SUBSTANTIAL HARM TO ANY OTHER PERSON, THE ADMINISTRATION MAY
31 SUE FOR INJUNCTIVE RELIEF AGAINST THE CONDUCT.

32 (2) IF THE ADMINISTRATION SUES FOR INJUNCTIVE RELIEF UNDER
33 THIS SUBSECTION AGAINST A PERSON WHO IS ALLEGED TO HAVE ENGAGED IN
34 CONDUCT THAT REQUIRES A LICENSE UNDER TITLE 15 OF THIS ARTICLE, BUT WHO
35 DOES NOT HAVE A LICENSE, THE ADMINISTRATION NEED NOT:

36 (I) POST BOND; OR

1 (II) SHOW THAT NO ADEQUATE REMEDY AT LAW EXISTS.

2 (3) A SUIT UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE
3 CIRCUIT COURT FOR THE COUNTY WHERE:

4 (I) THE ALLEGED VIOLATION OCCURS; OR

5 (II) THE PRINCIPAL PLACE OF BUSINESS OF THE ALLEGED
6 VIOLATOR IS LOCATED.

7 13-920.

8 (a) (1) In this section "tow truck" means a vehicle that:

9 (i) Is a Class E (truck) vehicle that is designed to lift, pull, or carry
10 a vehicle by a hoist or mechanical apparatus;

11 (ii) Has a manufacturer's gross vehicle weight rating of 10,000
12 pounds or more; and

13 (iii) Is equipped as a tow truck or designed as a rollback as defined
14 in § 11-151.1 of this article.

15 (2) In this section "tow truck" does not include a truck tractor as defined
16 in § 11-172 of this article.

17 (j) (1) This subsection applies only to a vehicle required to be registered in
18 the State.

19 (2) [A] SUBJECT TO SUBSECTION (G) OF THIS SECTION, A person may
20 not operate a tow truck [for hire] unless the tow truck is registered under this
21 section.

22 (3) A person convicted of operating a tow truck in violation of this
23 subsection shall be subject to a fine of up to \$3,000.

24 15-113.

25 (a) Each person who conducts auctions as a business in this State of motor
26 vehicles of a type required to be registered under this article shall keep a record of:

27 (1) The name and address of the consignor;

28 (2) The date on which it was consigned;

29 (3) The year, make, model, and serial number of each vehicle consigned;

30 (4) The title number and state where the vehicle was last registered;

31 (5) The odometer mileage reading at the time of consignment;

1 (6) The name and address of the person to whom the vehicle was sold;

2 (7) The selling price; and

3 (8) The date of sale.

4 (b) During business hours, the records shall be open to inspection by the
5 Administration OR BY A POLICE OFFICER.

6 (c) The records required by this section shall be kept for at least 3 years after
7 the transaction to which it applies.

8 (D) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER
9 SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY
10 NOT EXCEEDING:

11 (1) FOR A FIRST OFFENSE, \$500; OR

12 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

13 15-113.1.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (2) "AUTOMOTIVE REPAIR FACILITY" MEANS A FACILITY WHERE
17 MALFUNCTIONS OF A MOTOR VEHICLE ARE DIAGNOSED OR CORRECTED FOR
18 COMPENSATION.

19 (3) "VEHICLE STORAGE FACILITY" MEANS A FACILITY WHERE DISABLED
20 VEHICLES ARE STORED AT ANY TIME FOR COMPENSATION.

21 (B) (1) A PERSON WHO OPERATES AN AUTOMOTIVE REPAIR FACILITY SHALL
22 KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE MOTOR
23 VEHICLE REPAIRS ARE CONDUCTED OF:

24 (I) THE NAME AND ADDRESS OF THE OWNER OF EACH MOTOR
25 VEHICLE REPAIRED OR STORED AT THE AUTOMOTIVE REPAIR FACILITY;

26 (II) THE DATE A MOTOR VEHICLE WAS LEFT AT THE AUTOMOTIVE
27 REPAIR FACILITY;

28 (III) THE YEAR, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF
29 THE VEHICLE; AND

30 (IV) FOR ANY PARTS OF MOTOR VEHICLES AT THE AUTOMOTIVE
31 REPAIR FACILITY, PROOF OF OWNERSHIP OR PROOF OF THE RIGHT OF POSSESSION.

32 (2) A PERSON WHO OPERATES A VEHICLE STORAGE FACILITY SHALL
33 KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE VEHICLES
34 ARE STORED OF:

1 (I) THE NAME AND ADDRESS OF THE INDIVIDUAL WHO
2 REQUESTED STORAGE OF EACH VEHICLE;

3 (II) THE DATE THAT EACH VEHICLE WAS BROUGHT INTO THE
4 VEHICLE STORAGE FACILITY;

5 (III) THE YEAR, MODEL, AND, IF AVAILABLE, THE VEHICLE
6 IDENTIFICATION NUMBER OF EACH VEHICLE; AND

7 (IV) THE DATE AND MANNER OF DISPOSITION OF EACH VEHICLE.

8 (C) THE RECORDS REQUIRED BY THIS SECTION SHALL BE KEPT FOR AT LEAST
9 3 YEARS AFTER THE TRANSACTION TO WHICH THE RECORD APPLIES.

10 (D) DURING NORMAL BUSINESS HOURS, RECORDS REQUIRED UNDER THIS
11 SECTION AND PARTS AND VEHICLES FOR WHICH RECORDS ARE REQUIRED SHALL BE
12 AVAILABLE FOR INSPECTION BY THE ADMINISTRATION OR BY A POLICE OFFICER ON
13 ANY PREMISES OWNED OR OPERATED BY AN AUTOMOTIVE REPAIR FACILITY OR
14 VEHICLE STORAGE FACILITY.

15 (E) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER
16 SUBSECTIONS (B) THROUGH (D) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY
17 NOT EXCEEDING:

18 (1) FOR A FIRST OFFENSE, \$500; OR

19 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

20 15-115.

21 (A) (1) A PERSON ISSUED A CITATION UNDER § 15-113 OR § 15-113.1 OF THIS
22 SUBTITLE SHALL COMPLY WITH A NOTICE TO APPEAR CONTAINED IN A CITATION OR
23 A TRIAL NOTICE ISSUED BY THE DISTRICT COURT.

24 (2) A PERSON MAY COMPLY WITH THE NOTICE TO APPEAR BY:

25 (I) APPEARANCE IN PERSON OR BY COUNSEL; OR

26 (II) PAYMENT OF THE CIVIL PENALTY AS PROVIDED IN THE
27 CITATION.

28 (B) A CITATION ISSUED FOR A VIOLATION UNDER § 15-113 OR § 15-113.1 OF
29 THIS SUBTITLE SHALL INCLUDE:

30 (1) INFORMATION ADVISING THE PERSON RECEIVING THE CITATION OF
31 THE MANNER IN WHICH LIABILITY MAY BE CONTESTED; AND

32 (2) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO
33 CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

1 (I) IS AN ADMISSION OF LIABILITY AND WAIVER OF DEFENSES;
2 AND

3 (II) RESULTS IN AN ENTRY OF A DEFAULT JUDGMENT IN FAVOR OF
4 THE ADMINISTRATION AGAINST THE PERSON NAMED IN THE CITATION.

5 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DISTRICT
6 COURT SHALL:

7 (I) ENTER A DEFAULT JUDGMENT IN FAVOR OF THE
8 ADMINISTRATION IF A PERSON FAILS TO PAY A FINE OR COMPLY WITH A NOTICE TO
9 APPEAR; AND

10 (II) MAIL NOTICE OF THE DEFAULT JUDGMENT TO THE PERSON
11 NAMED IN THE CITATION.

12 (2) THE DEFAULT JUDGMENT SHALL TAKE EFFECT UNLESS, BY THE
13 END OF THE 15TH DAY AFTER THE DATE THAT NOTICE OF THE DEFAULT JUDGMENT
14 WAS MAILED, THE PERSON NAMED IN THE CITATION POSTS BOND OR A CIVIL
15 PENALTY DEPOSIT AND REQUESTS A NEW DATE FOR A TRIAL.

16 (D) THE ADMINISTRATION MAY COLLECT A CIVIL PENALTY AND
17 ADMINISTRATIVE EXPENSES BY CIVIL ACTION COMMENCED IN THE DISTRICT COURT
18 THAT SITS IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.

19 15-502.

20 (a) A person may not conduct the business of an automotive dismantler and
21 recycler or a scrap processor, or engage in the business of acquiring or offering to
22 purchase or remove vehicles which are to be dismantled in whole or in part by that
23 person for the sale of usable parts, unless the person is licensed by the Administration
24 under this subtitle.

25 27-101.

26 (a) It is a misdemeanor for any person to violate any of the provisions of the
27 Maryland Vehicle Law unless the violation:

28 (1) Is declared to be a felony by the Maryland Vehicle Law or by any
29 other law of this State; or

30 (2) Is punishable by a civil penalty under the applicable provision of the
31 Maryland Vehicle Law.

32 (b) Except as otherwise provided in this section, any person convicted of a
33 misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is
34 subject to a fine of not more than \$500.

35 (h) Any person who is convicted of a violation of any of the provisions of [§
36 15-502(a) of this article ("License required"),] § 16-303(a), (b), (c), (d), (e), (f), or (g) of

1 this article ("Driving while license is canceled, suspended, refused, or revoked"), §
2 17-107 of this article ("Prohibitions"), or § 17-110 of this article ("Providing false
3 evidence of required security") is subject to:

4 (1) For a first offense, a fine of not more than \$1,000, or imprisonment
5 for not more than 1 year, or both; and

6 (2) For any subsequent offense, a fine of not more than \$1,000, or
7 imprisonment for not more than 2 years, or both.

8 (i) Any person who is convicted of a violation of any of the provisions of §
9 15-302 of this article ("Dealer's license required") [or], § 15-402 of this article
10 ("Vehicle salesman's license required"), OR § 15-502(A) OF THIS ARTICLE
11 ("AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR - LICENSE
12 REQUIRED") is subject to:

13 (1) For a first offense, a fine of not more than \$1,000 or imprisonment for
14 not more than 6 months or both; and

15 (2) For any subsequent offense, a fine of not more than \$2,000 or
16 imprisonment for not more than 1 year or both.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1999.